

UNITED STATES U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: KEURIG GREEN MOUNTAIN	:	ECF Case
SINGLE SERVE COFFEE ANTITRUST	:	
LITIGATION	:	1:14-md-2542-VSB-HBP
	:	
	:	MDL No. 2542
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	:	
JBR, Inc. (D/B/A ROGERS FAMILY	:	
COMPANY),	:	1:14-cv-04242-VSB-HBP
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
KEURIG GREEN MOUNTAIN, INC.	:	
(F/K/A GREEN MOUNTAIN COFFEE	:	
ROASTERS, INC. AND AS SUCCESSOR	:	
TO KEURIG, INC.),	:	
	:	
Defendant.	:	
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**DECLARATION OF DANIEL JOHNSON, JR. IN SUPPORT OF PLAINTIFF'S
MOTION FOR A PRELIMINARY INJUNCTION**

I, Daniel Johnson, Jr., declare:

1. I have personal knowledge of the facts set forth herein, and if called upon to testify, I could and would competently testify to the statements made herein. I submit this declaration in support of Plaintiff JBR, Inc., d/b/a Rogers Family Coffee Company ("Rogers").

2. Attached hereto as Exhibit 1 is a true and correct copy of Keurig Green Mountain's 2013 Annual Report to Shareholders and SEC Form 10K, *available at* <http://investor.keuriggreenmountain.com/annuals-proxies.cfm>.

3. Attached hereto as Exhibit 2 is a true and correct copy of Mark Astrachan &

Edward McPike, *Re-Closing the System not without Significant Risk*, Stifel (Nov. 21, 2013).

4. Attached hereto as Exhibit 3 is a true and correct copy of a document titled “Keurig 2.0 Press Event” dated June 24, 2014 that was produced by Keurig, Bates numbered KGM00000268-288 and designated as Highly Confidential.

5. Attached hereto as Exhibit 4 is a true and correct copy of a document titled “BJ’s Wholesale Club: Introduction to Innovation” dated December 13, 2013 that was produced by Keurig, with no Bates number and designated as Highly Confidential.

6. Attached hereto as Exhibit 5 is a true and correct copy of Chris Welch, *Keurig is Locking Down its Coffee Makers to Keep Out Cheap Refills*, TheVerge (Mar. 3, 2014), <http://www.theverge.com/2014/3/3/5465578/keurig-locking-down-coffee-makers-to-block-cheap-refills>.

7. Attached hereto as Exhibit 6 is a true and correct copy of Daniel Kline, *Keurig Plans to Lock Out Third Party K-Cups from its New Coffee Makers, But is it Legal?* The Motley Fool (Mar. 12, 2014), <http://www.fool.com/investing/general/2014/03/12/keurig-plans-to-lock-out-third-party-k-cups-from-i.aspx>.

8. Attached hereto as Exhibit 7 is a true and correct copy of *Green Mountain Coffee Roasters’ CEO Discusses F4Q 2013 Results (Transcript)*, Seeking Alpha (Nov. 20, 2013), <http://seekingalpha.com/article/1853341-green-mountain-coffee-roasters-ceo-discusses-f4q-2013-results-earnings-call-transcript>.

9. Attached hereto as Exhibit 8 is a true and correct copy of a document titled “Keurig 2.0 Master Messaging Guide” dated June 26, 2014 that was produced by Keurig, Bates numbered KGM00000236-267 and designated as Highly Confidential.

10. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from the transcript of the deposition of Keurig Green Mountain, Inc.’s 30(b)(6) witness Kevin Sullivan which took place on August 7, 2014 in Boston, Massachusetts and has been designated as Confidential.

11. Attached hereto as Exhibit 10 is a true and correct copy of a draft document titled

“K2.0 CBT Color Sensor Specification” with a release date of June 9, 2014 that was produced by Keurig, Bates numbered KGM00000866-868 and designated as Highly Confidential.

12. Attached hereto as Exhibit 11 is a true and correct copy of a document titled “Keurig K2.0 Brewer Software Design Document Rev. 0.4” that was produced by Keurig, Bates numbered KGM00000829-865 and designated as Highly Confidential.

13. Attached hereto as Exhibit 12 is a true and correct copy of excerpts from the transcript of the deposition of Keurig Green Mountain, Inc.’s 30(b)(6) witness David Manly which took place on August 8, 2014 in Boston, Massachusetts and has been designated as Confidential.

14. Attached hereto as Exhibit 13 is a true and correct copy of a document titled “Keurig 2.0 Beverage Cheat Sheet” that was produced by Keurig, Bates numbered KGM00000184 and designated as Highly Confidential.

15. Attached hereto as Exhibit 14 is a true and correct copy of a document titled “Keurig 2.0” and has been identified as the User Manual for the Keurig 2.0 Model 500, which was produced by Keurig with no Bates number and designated as Highly Confidential.

16. Attached hereto as Exhibit 15 is a true and correct copy of *About Keurig Brewed(R)*, <http://www.keurig.com/customer-service/k-cups-and-beverages-support/about%20keurig%20brewed> (last visited Apr. 11, 2014).

17. Attached hereto as Exhibit 16 is a true and correct copy of a document titled “Walmart Top-to-Top Meeting” dated October 29, 2013 that was produced by Keurig, with no Bates number and designated as Highly Confidential.

18. Attached hereto as Exhibit 17 is a true and correct copy of Green Mountain Coffee Roasters, Inc., Q3 2014 Results Earnings Call Transcript, Seeking Alpha (Aug. 6, 2014) *available at* <http://seekingalpha.com/article/2392715-keurig-green-mountains-gmcr-ceo-brian-kelley-on-q3-2014-results-earnings-call-transcript>.

19. Attached hereto as Exhibit 18 is a true and correct copy of a document titled “Bed Bath and Beyond Innovation Meeting” dated November 22, 2013 that was produced by Keurig,

with no Bates number and designated as Highly Confidential.

20. Attached hereto as Exhibit 19 is a true and correct copy of *Why are you seeing this message?*, <http://www.keurig.com/oops> (last visited Aug. 11, 2014).

21. Attached hereto as Exhibit 20 is a true and correct copy of Green Mountain Coffee Roasters' 2006 Annual Report to Shareholders and SEC Form 10K, *available at* <http://investor.keuriggreenmountain.com/annuals-proxies.cfm>.

22. Attached hereto as Exhibit 21 is a true and correct copy of Josh Dzieza, *Inside Keurig's plan to stop you from buying knockoff K-Cups*, TheVerge (June 30, 2014), <http://www.theverge.com/2014/6/30/5857030/keurig-digital-rights-management-coffee-pod-pirates>.

23. Attached hereto as Exhibit 22 is a compilation of true and correct copies of press releases from Green Mountain Coffee Roasters, Inc.'s website including: "Green Mountain Coffee Roasters, Inc. Completes Acquisition of Tully's Brand And Wholesale Business (Mar. 30, 2009), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=470651>; Green Mountain Coffee Roasters, Inc. Completes Acquisition of Tully's Brand And Wholesale Business (Mar. 30, 2009), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=470651>; Green Mountain Coffee Roasters, Inc. Acquires Timothy's Coffees of the World, Inc. (Nov. 13, 2009), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=470411>; Green Mountain Coffee Roasters, Inc. Acquires Diedrich Coffee, Inc. (May 11, 2010), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=470963>; Green Mountain Coffee Roasters, Inc. to Acquire Van Houtte (Sept. 14, 2010), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=507241>.

24. Attached hereto as Exhibit 23 is a true and correct copy of Norm Alster, *Keurig Brews Plan for Coffee Domination, Fizzy Profit*, Investors Business Daily, (July 17, 2014), *available at* <http://news.investors.com/business-the-new-america/071714-709211-keurig-green->

mountain-brewn-coffee-and-soda-plan.htm#ixzz38R6k4Uva.

25. Attached hereto as Exhibit 24 is a true and correct copy of Keurig (GMCR), Q2 2014 Results Earnings Call Transcript, Seeking Alpha (May 7, 2014), *available at* <http://seekingalpha.com/article/2201023-keurigs-gmcr-ceo-brian-kelley-on-q2-2014-results-earnings-call-transcript?part=single>.

26. Attached hereto as Exhibit 25 is a compilation of true and correct copies of press releases from Green Mountain Coffee Roasters, Inc.'s website including: Keurig Green Mountain and Peet's Coffee & Tea Announce Partnership (Mar. 14, 2014), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=832844>; Keurig Green Mountain to Bring the Keurig Brewed Seal to Harris Teeter K-Cup Packs (Jul. 9, 2014), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=858784>; Keurig Green Mountain and The J.M. Smucker Company Announce Expanded Partnership Agreement (May 7, 2014), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=846198>; BJ's Members Raise Your Mugs! Wellsley Farms Coffee Now Comes in Convenient K-Cup Packs (June 23, 2014), *available at* <http://investor.keuriggreenmountain.com/releasedetail.cfm?ReleaseID=855906>.

27. Attached hereto as Exhibit 26 is a true and correct copy of Joseph A. Gabelli, *The Global Coffee Industry Growth (Still) Brewing*, Gabelli & Company (May 9, 2013).

28. Attached hereto as Exhibit 27 is a true and correct copy of Press Release 17 April 2014: Espresso Coffee Machines (English), L'Autorité de la concurrence, *available at* http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=592&id_article=2343.

I further represent under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 11, 2014

By: /s/ Daniel Johnson, Jr.

Daniel Johnson, Jr.